

**EXHIBIT 5**

**ENTIRE EXHIBIT**

**SUBMITTED UNDER SEAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

--oOo--

WAYMO LLC,

Plaintiff,

Case No.

vs.

3:17-cv-00939-WHA

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING LLC,

Defendants.

-----/

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF JAI KRISHNAN

WEDNESDAY, AUGUST 9, 2017

Reported by:

Anrae Wimberley

CSR No. 7778

Job No. 2671247

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1 WEDNESDAY, AUGUST 9, 2017; SAN FRANCISCO, CALIFORNIA;

2 9:11 A.M.

3 - - -

4 THE VIDEOGRAPHER: Good morning. 09:11:19

5 We're on the record at 9:11 a.m. on August 09:11:26

6 9th, 2017. 09:11:28

7 This is the video-recorded deposition of Jai 09:11:32

8 Krishnan. 09:11:32

9 My name is Lawrence Cossar here with our 09:11:36

10 court reporter, Anrae Wimberley. We are here from 09:11:40

11 Veritext National Deposition and Litigation Services 09:11:43

12 at the request of counsel for defendant. 09:11:48

13 This deposition is being held at Morrison 09:11:50

14 Foerster in San Francisco. 09:11:53

15 The caption of this case is Waymo LLC versus 09:11:57

16 Uber Technologies, Incorporated, et al. Case 09:12:01

17 No. 3:17-cv-00939-WHA. 09:12:01

18 Please note that audio and video recording 09:12:10

19 will take place unless all parties agree to go off the 09:12:13

20 record. Microphones are sensitive and may pick up 09:12:17

21 whispers, private conversations and cellular 09:12:21

22 interference. 09:12:23

23 I am not related to any party in this action, 09:12:26

24 nor am I financially interested in the outcome in any 09:12:29

25 way. 09:12:30

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1           At this time, will counsel and all present           09:12:33  
2     please identify themselves for the record.           09:12:36  
3           MR. PRITT: Maxwell Pritt, Boies Schiller Flexner,   09:12:39  
4     counsel for defendants Uber Technologies, Inc. and   09:12:43  
5     Ottomotto LLC, along with my colleague Matt Chou, also 09:12:48  
6     from Boies Schiller Flexner.           09:12:49  
7           MR. LIN: James Lin, Goodwin Procter, counsel for   09:12:53  
8     Otto Trucking LLC.           09:12:55  
9           MS. LANDRUM Megan Landrum, Alphabet.           09:12:58  
10          MS. ROBERTS: Andrea Roberts from Quinn Emanuel,   09:13:00  
11     counsel for Waymo and the witness.           09:13:03  
12          THE VIDEOGRAPHER: Thank you.           09:13:03  
13           The witness will be sworn in and counsel may   09:13:06  
14     begin the examination.           09:13:08  
15                           JAI KRISHNAN,  
16                           sworn as a witness by the Certified  
17                           Shorthand Reporter, testified as follows:  
18                           EXAMINATION  
19     BY MR. PRITT:           09:13:08  
20           Q.     Could you please state your full name for the 09:13:26  
21     record.           09:13:26  
22           A.     Jai Krishnan.           09:13:27  
23           Q.     And what is your home address?           09:13:30  
24           A.     [REDACTED], Morgan Hill, California   09:13:35  
25     95037.           09:13:36

1 of document in the course of his work at Waymo? 11:20:09

2 MS. ROBERTS: Objection; form. 11:20:10

3 THE WITNESS: Access sometimes is controlled. And 11:20:13

4 so if he requests access, he would get it. 11:20:17

5 BY MR. PRITT: 11:20:17

6 Q. And it would be ordinary -- part of his 11:20:19

7 ordinary course of work to request and get access to 11:20:23

8 look at a document like this for his work? 11:20:27

9 MS. ROBERTS: Objection; form. 11:20:28

10 THE WITNESS: Yes. 11:20:28

11 MS. ROBERTS: Are you at a good stopping point? 11:20:42

12 MR. PRITT: Sure. Do you want to do -- 11:20:44

13 (Discussion off the record.)

14 MS. ROBERTS: We can go off the record. 11:20:54

15 THE VIDEOGRAPHER: The time is 11:20 a.m. We're 11:21:00

16 going off the record. 11:21:02

17 (Recess taken.) 11:35:14

18 THE VIDEOGRAPHER: The time is 11:35 a.m. We're 11:35:18

19 back on the record. 11:35:20

20 MR. PRITT: Thank you. 11:35:20

21 BY MR. PRITT:

22 Q. I just want to clarify one thing to make sure 11:35:25

23 my question wasn't misinterpreted. 11:35:29

24 When we were talking about Sameer's 11:35:31

25 declaration, do you remember that? 11:35:34

1	A. Yes.	11:35:34
2	Q. And I wasn't asking you whether or not you	11:35:37
3	knew one way or another whether what Sameer said about	11:35:43
4	not taking files was true. I was asking do you	11:35:50
5	believe that Sameer would be lying under penalty of	11:35:53
6	perjury that he did not take any files based on your	11:35:58
7	relationship with him?	11:36:01
8	A. Yes. I understand the question. The answer	11:36:03
9	to that is I don't know.	11:36:06
10	Q. So the answer is you don't know whether you	11:36:09
11	believe one way or the other whether Sameer is telling	11:36:14
12	the truth under penalty of perjury?	11:36:17
13	A. That's correct.	11:36:18
14	Q. Okay. Thank you.	11:36:19
15	Let's go to a different subject.	11:36:25
16	How do you know what information at Waymo is	11:36:29
17	confidential?	11:36:30
18	A. By default any information we create is	11:36:41
19	confidential and is for intel consumption.	11:36:45
20	Q. What do you mean by "default"?	11:36:46
21	A. Like any documents I create, any notes I	11:36:55
22	create, they're all confidential.	11:36:59
23	Q. So anything you create at work is	11:37:04
24	confidential?	11:37:06
25	A. Correct.	11:37:06

1 Q. Is that the same thing as saying anything at 11:37:11  
2 work you create is private? 11:37:15  
3 MS. ROBERTS: Objection; form. 11:37:17  
4 THE WITNESS: I don't understand the word 11:37:17  
5 "private." 11:37:19  
6 BY MR. PRITT:  
7 Q. So you're saying every single thing you 11:37:22  
8 create at work is confidential? 11:37:24  
9 A. Yes. 11:37:24  
10 Q. Does that include every e-mail you send? 11:37:28  
11 A. Yes. 11:37:28  
12 Q. And is there a difference between, say, 11:37:30  
13 thinking my conversation with a friend is private 11:37:34  
14 versus thinking something I created at work is 11:37:37  
15 confidential? 11:37:38  
16 MS. ROBERTS: Objection; form. 11:37:45  
17 THE WITNESS: I don't understand the question. 11:37:46  
18 Sorry. 11:37:47  
19 BY MR. PRITT: 11:37:47  
20 Q. So something that's private is something 11:37:49  
21 that's not shared with other people; is that right? 11:37:52  
22 Would you agree with that? 11:37:54  
23 MS. ROBERTS: Objection; form. 11:37:55  
24 THE WITNESS: Yes. 11:37:56  
25 BY MR. PRITT: 11:37:56

1 Q. And you said that something -- everything you 11:38:01  
2 do at work is confidential; is that right? 11:38:03  
3 A. Yes. 11:38:03  
4 Q. So if private just means you don't share it 11:38:06  
5 with somebody else, is everything you do at work, when 11:38:10  
6 you say it's confidential, meaning it's private? 11:38:13  
7 MS. ROBERTS: Objection; form. 11:38:14  
8 THE WITNESS: Private might mean -- I don't know 11:38:17  
9 what the definition of private is. Private might mean 11:38:21  
10 just one person being party to knowing it. 11:38:24  
11 Confidential means a group could know it, but it is 11:38:28  
12 not allowed to be shared outside of Waymo. 11:38:32  
13 BY MR. PRITT: 11:38:32  
14 Q. So the difference is private could be with 11:38:34  
15 just one person and when you say confidential, you're 11:38:39  
16 meaning private with the group? 11:38:42  
17 A. Yes. 11:38:42  
18 Q. So if a subordinate or colleague came to you 11:38:45  
19 for advice, "How do I know what information is 11:38:49  
20 confidential at Waymo?" what would you tell them? 11:38:53  
21 A. Everything is confidential. The default is 11:38:54  
22 everything is confidential.  
23 Q. And then how do you know whether something is 11:38:58  
24 a trade secret apart from confidential information? 11:39:03  
25 MS. ROBERTS: Objection; form. 11:39:05



1 THE WITNESS: I don't know what a trade secret is. 11:39:09  
2 BY MR. PRITT: 11:39:09  
3 Q. What procedures are in place at Waymo to make 11:39:20  
4 sure a public document doesn't contain confidential 11:39:23  
5 Waymo information? 11:39:25  
6 MS. ROBERTS: Objection; form. 11:39:28  
7 THE WITNESS: Can you define -- what do you mean 11:39:30  
8 by "public document"? 11:39:31  
9 BY MR. PRITT:  
10 Q. How do you make sure -- or how does Waymo 11:39:34  
11 make sure that something that is confidential isn't 11:39:38  
12 put into a public document? 11:39:41  
13 A. When you say "public," meaning accessible to 11:39:46  
14 the general public? 11:39:47  
15 Q. Yes. 11:39:48  
16 A. There is -- there are only a few authorized 11:39:53  
17 people within Waymo who are able to publicly present 11:39:56  
18 information. 11:39:57  
19 Q. And who are those people? 11:39:59  
20 A. They would be in the marketing team. 11:40:04  
21 Q. Do you know who is on the marketing team? 11:40:07  
22 A. No. 11:40:07  
23 Q. Do you know how big the marketing team is? 11:40:12  
24 A. I can't be sure. 11:40:13  
25 Q. And this is the marketing team of just Waymo? 11:40:17

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1 Q. Are there any other guidelines? 11:41:42  
2 A. Not that I'm aware of. 11:41:43  
3 Q. Are there any other procedures? 11:41:47  
4 MS. ROBERTS: Objection; form. 11:41:48  
5 THE WITNESS: I don't know. 11:41:49  
6 BY MR. PRITT: 11:41:49  
7 Q. So do the confidential -- does -- the 11:41:57  
8 confidential information you create at Waymo, does it 11:42:00  
9 always contain any sort of legend saying that it's 11:42:05  
10 confidential? 11:42:07  
11 A. Yes. 11:42:12  
12 Q. So does that mean every e-mail you send 11:42:16  
13 contains a legend that says it's confidential? 11:42:20  
14 A. E-mails sometimes may not contain a legend. 11:42:24  
15 Q. But you still consider e-mails to be 11:42:26  
16 confidential? 11:42:27  
17 A. Yes. 11:42:27  
18 Q. Are there any other things that may not 11:42:30  
19 contain a legend? 11:42:31  
20 A. Not that I can think of. 11:42:33  
21 Q. Do you know what the legend is? 11:42:41  
22 A. Yes. 11:42:46  
23 Q. What is it? 11:42:48  
24 A. "Google Confidential" or "Waymo 11:42:52  
25 Confidential." 11:42:53

## HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY

1 Q. Is there a trade secret legend? 11:43:05

2 A. I don't know. 11:43:06

3 Q. Have you ever seen one? 11:43:11

4 A. I don't know. 11:43:12

5 Q. Do you recall ever seeing a trade secret 11:43:15

6 legend? 11:43:18

7 A. No. 11:43:18

8 Q. Who decides at Waymo what information is 11:43:26

9 confidential? 11:43:27

10 MS. ROBERTS: Objection; form. 11:43:39

11 THE WITNESS: There is no specific person who 11:43:43

12 decides what is confidential because the default is 11:43:48

13 everything is confidential. 11:43:49

14 BY MR. PRITT: 11:43:49

15 Q. And is that default that you referred to 11:43:52

16 found in the guidelines? 11:43:55

17 A. I don't know. 11:43:57

18 Q. How did you learn that all information would, 11:44:03

19 by default, be confidential? 11:44:06

20 A. From my supervisor. 11:44:08

21 Q. And that's Mr. Willis? 11:44:14

22 A. My -- my first supervisor was there before I 11:44:18

23 started, Russ Atassi. He's talked to me about that, 11:44:21

24 and Mr. Willis has certainly reinforced that. 11:44:26

25 Q. Did you learn that all information, by 11:44:27

1 default, was confidential other than by talking to 11:44:30  
2 your supervisors? 11:44:35

3 A. There are also periodic online trainings we 11:44:41  
4 receive, which are mandated. And so it's sort of 11:44:49  
5 mentioned there as well. 11:44:50

6 Q. And how often do you receive those trainings? 11:44:57

7 A. I'm not sure of the frequency, but we receive 11:44:59  
8 them very regularly. 11:45:01

9 Q. And what does "regularly" mean? 11:45:05

10 A. Again, approximating it, at least once every 11:45:09  
11 six months. 11:45:09

12 Q. When you said they're "sort of mentioned" 11:45:12  
13 that everything by default is confidential, what do 11:45:16  
14 you mean by "sort of mentioned"? 11:45:17

15 A. I don't recollect exactly if it's explicitly 11:45:22  
16 mentioned there, but the training provides use cases 11:45:30  
17 and scenarios on confidentiality and how to protect 11:45:33  
18 confidential information. 11:45:35

19 Q. And do you recall any examples of those 11:45:38  
20 scenarios? 11:45:40

21 A. No. 11:45:40

22 Q. And are these video trainings? 11:45:45

23 A. They are audiovisual. 11:45:48

24 Q. And are there prerecorded audiovisual 11:45:52  
25 trainings? 11:45:53

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1 MS. ROBERTS: Objection; form. 11:48:51

2 BY MR. PRITT: 11:48:51

3 Q. Do you know if any Alphabet entities use the 11:48:55

4 same vendors as Waymo? 11:48:58

5 A. Yes. 11:48:59

6 Q. Yes, they do -- 11:49:02

7 A. Yes, they do use the same vendors as Waymo. 11:49:06

8 Q. Do you talk with other people at other 11:49:12

9 Alphabet entities about the work you do for Waymo with 11:49:16

10 vendors? 11:49:17

11 A. No. 11:49:18

12 Q. Have you ever done that? 11:49:21

13 A. No. 11:49:24

14 Q. Are you aware of anyone at Waymo ever doing 11:49:28

15 that? 11:49:29

16 A. Yes. 11:49:33

17 Q. And what were those circumstances? 11:49:39

18 A. It would be primarily a question around 11:49:46

19 getting the right contacts and suppliers. By 11:49:49

20 "contacts" I mean the right people at suppliers so 11:49:52

21 that we can ask our suppliers a query. That's the 11:49:57

22 type of conversations I know about. 11:50:02

23 Q. Do you know who's had those conversations? 11:50:08

24 A. No. 11:50:08

25 Q. Okay. 11:50:10

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1 FEDERAL CERTIFICATE OF DEPOSITION OFFICER  
2 I, ANRAE WIMBERLEY, CSR NO. 7778, do hereby  
declare:

3 That, prior to being examined, the witness named  
4 in the foregoing deposition was by me duly sworn  
pursuant to Section 30(f)(1) of the Federal Rules of  
Civil Procedure and the deposition is a true record of  
5 the testimony given by the witness;

6 That said deposition was taken down by me in  
shorthand at the time and place therein named and  
7 thereafter reduced to text under my direction;

8 ----- That the witness was requested to  
review the transcript and make any changes to the  
9 transcript as a result of that review pursuant to  
Section 30(e) of the Federal Rules of Civil Procedure;

10 ----- No changes have been provided by the  
11 witness during the period allowed;

12 ----- The changes made by the witness are  
appended to the transcript;

13 ----- No request was made that the transcript  
14 be reviewed pursuant to Section 30(e) of the Federal  
Rules of Civil Procedure.

15 I further declare that I have no interest in the  
16 event of the action.

17 I declare under penalty of perjury under the laws  
of the United States of America that the foregoing is  
18 true and correct.

19 WITNESS my hand this 10th day of August, 2017.  
20  
21

22   
23  
24

25 ANRAE WIMBERLEY, CSR NO. 7778